

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

LEONARD P. SULLIVAN, SR.,

2:13-CV-120 JCM (NJK)

Plaintiff(s),

V.

NEVADA DEPT OF
ADMINISTRATION, et al.,

Defendant(s).

ORDER

Presently before the court is the report and recommendation of Magistrate Judge Koppe dismissing plaintiff's case with prejudice. (Doc. # 3). Plaintiff objected. (Docs. # 4 & 5).

18 Plaintiff alleges a 42 U.S.C. § 1983 claim against Nevada Department of Administration and
19 Georganne W. Bradley. (Doc. # 1-1). Plaintiff's claims against Bradley stem from Bradley's actions
20 as a hearing officer for the Nevada Department of Administration for plaintiff's worker's
21 compensation case following a work-related accident at the MGM-Bellagio.

22 Magistrate Judge Koppe screened the *in forma pauperis* complaint. The magistrate judge
23 dismissed the § 1983 claim against Bradley in her role as a hearing officer under the doctrine of
24 judicial immunity. The magistrate also dismissed the § 1983 claim against Nevada Department of
25 Administration under the Eleventh Amendment.

26 The magistrate judge recommends dismissing the complaint with prejudice because it is clear
27 that the deficiencies in the complaint cannot be cured by amendment. (See doc. # 4). Plaintiff timely

1 filed an objection. (See docs. # 5 & 6). Plaintiff's objection concedes that he cannot seek monetary
 2 damages against Bradley and clarifies that the Nevada Department of Administration was never
 3 intended to be a named defendant. However, plaintiff's objection does not actually object to any
 4 portion of the magistrate's report and recommendation.

5 **I. Legal standard**

6 A party may file specific written objections to the findings and recommendations of a United
 7 States magistrate judge made pursuant to Local Rule IB 1–4. 28 U.S.C. § 636(b)(1)(B); LR IB 3–2.
 8 Upon the filing of such objections, the district court must make a de novo determination of those
 9 portions of the report to which objections are made. 28 U.S.C. § 636(b)(1)©; LR IB 3–2(b). The
 10 district court may accept, reject, or modify, in whole or in part, the findings or recommendations
 11 made by the magistrate judge. *Id.*

12 Where a party fails to object, however, the court is not required to conduct "any review at all
 13 . . . of any issue that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985).
 14 Indeed, the Ninth Circuit has recognized that a district court is not required to review a magistrate
 15 judge's report and recommendation where no objections have been filed. *See United States v.*
 16 *Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard of review employed by the
 17 district court when reviewing a report and recommendation to which no objections were made); *see*
 18 *also Schmidt v. Johnstone*, 263 F.Supp. 2d 1219, 1226 (D. Ariz. 2003) (reading the Ninth Circuit's
 19 decision in *Reyna-Tapia* as adopting the view that district courts are not required to review "any
 20 issue that is not the subject of an objection.").

21 Thus, if there is no objection to a magistrate judge's recommendation, then this court may
 22 accept the recommendation without review. *See e.g., Johnstone*, 263 F.Supp.2d at 1226 (accepting,
 23 without review, a magistrate judge's recommendation to which no objection was filed).

24 **II. Discussion**

25 This court finds it appropriate to engage in a *de novo* review to determine whether to adopt
 26 the recommendation of the magistrate judge. Upon reviewing the recommendation and the record,
 27 the court finds plaintiff's complaint is deficient for the reasons stated by the magistrate judge. The
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1 court further finds that the deficiencies in the complaint cannot be cured by amendment.

2 **III. Conclusion**

3 Accordingly,

4 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Magistrate Judge Koppe's
5 report and recommendation dismissing plaintiff's case with prejudice (doc. # 3) be, and the same
6 hereby is, ADOPTED in its entirety.

7 IT IS FURTHER ORDERED that the clerk of the court file the complaint (doc. # 1-1).

8 IT IS FURTHER ORDERED that the complaint be, and the same hereby is, DISMISSED
9 with prejudice.

10 IT IS FURTHER ORDERED that the clerk of the court close the case.

11 DATED July 22, 2013.

12 
13 **UNITED STATES DISTRICT JUDGE**

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